IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1969 OF 2005

Ashok Jayantilal Khandwala ..Petitioner

Vs.

State of Maharashtra & Anr. ...Respondents

...
Mr. Vivek Kantawala Advocate for Petitioner
Mr. D.P.Adsule, A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 19,2005

P.C.

1. Heard the learned advocate for the Petitioner and learned A.P.P. for State. None appears for the respondent-original complainant though served.

2. The petitioner is seeking quashing of proceedings relating to Criminal Case No.3582 of 2002 which is pending before the Judicial Magistrate, F.C. at Vasai. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in

issuing process and the said process deserves to be set aside. He further submitted that if the process issued against the petitioner is set aside, the proceedings in respect of the petitioner, would come to an end.

3. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of

five weeks.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]